

DETAILED ACTION

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:

The examiner has found that the prior art of record does not appear to teach, suggest or render obvious the claimed limitations in independent claims 1, 7, 11 and 21 in combination with dependent claims and also based on the Board of Patent Appeals and Interferences' decision dated November 17, 2008. The prior art of record fails to teach or suggest a PVC switching control method and system for controlling a PVC connection in a communication network, comprising setting a plurality of PVC connections and individually corresponding controlling connections between two exchanges of the communication network; detecting, by each of the exchanges, occurrence of or release from trouble with a PVC connection through the corresponding controlling connection; and switching an operative PVC connection to another one of the PVC connections in response to a result of the detection.

During the interview on 12/29/2008, Examiner raised the issue of 35 U.S.C. 101 as means plus function for claims 11 and 21 as software means because a system comprises all software is software system and as such, they could be rejected under 35 U.S.C. 101, software per se. Applicants' attorney argued that means for switching is performed by the ATM exchange, i.e. a switch, a device, hardware, as such, the claims shouldn't be rejected under 35 U.S.C. 101. In addition, based on Examiner knowledge, the means plus function includes

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structure and function, in this case, Examiner interprets the system recited in the claims as ATM exchange, i.e. a switch, a device, hardware, and therefore, the claims are not rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter, i.e. software per se.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUSTIN NGUYEN whose telephone number is (571)272-3971. The examiner can normally be reached on flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Flynn Nathan can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dustin Nguyen/
Primary Examiner, Art Unit 2454